



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,835	02/05/2004	Corinne Gail Wong	UCIVN-003C	7175
7590	10/14/2005		EXAMINER	
Robert D. Buyan STOUT, UXA, BUYAN & MULLINS, LLP Suite #310 4 Venture Irvine, CA 92618			AZPURU, CARLOS A	
		ART UNIT	PAPER NUMBER	1615
DATE MAILED: 10/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/773,835	WONG ET AL.	
	<b>Examiner</b> Carlos A. Azpuru	<b>Art Unit</b> 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 35-98 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 35, 36, 38, 39, 41-44, 45, 48, 49, 62, 67, 80, 82, 90, 94 and 98 is/are rejected.
- 7) Claim(s) 37,40,46,47,50-61,63-66,68-79,81,83-89,91-93 and 95-97 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. ____ .   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: ____ .                                   |

**DETAILED ACTION**

Receipt is acknowledged of the amendment, remarks and terminal disclaimer filed 07/27/2005.

The paper canceling claims 1-34 filed 02/05/2004 has been noted and will be processed so that those claims will be cancelled as indicated by applicant.

The rejection under the judicially created doctrine of obviousness-type double patenting is hereby withdrawn in view of the terminal disclaimer.

The following rejection is maintained in this action:

Claims 35, 36, 38, 39, 41-44, 45, 48, 49, 62, 67 80, 82, 90, 94 and 98 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donovan.

Donovan discloses an implant and method of preparing said implant by dissolving a biocompatible polymer, adding a substance, drying said polymer-solvent solution-substance admixture, then refrigerating said dry mass. ( see col. 2, lines 42-51; col. 8, lines 35-56; col. 14, lines 45-47; col. 15, lines 34; col. 20, lines 25-50; column 23, lines 50-55; col. 25, line 15). Addition of a liquid is implied through the disclosure of using a hydrogel at col. 2, lines 52-54. Manipulation of the softened mass to form microcapsules is also disclosed at col. 20, lines 62-67; col. 21, lines 1-2. Those of ordinary skill would expect the same therapeutic results and pharmacological characteristics from the instant invention given the teachings of Donovan which include

refrigeration of the dry solvent/polymer/substance mass, as well as addition of a liquid to said mass to form a hydrogel. Therefore, it would have been obvious to claim the instant method for preparing an implantable device by refrigerating the polymer/solvent/substance mass and or add liquid given the teachings of Donovan.

***Response to Arguments***

Applicant's arguments filed 07/27/2005 have been fully considered but they are not persuasive.

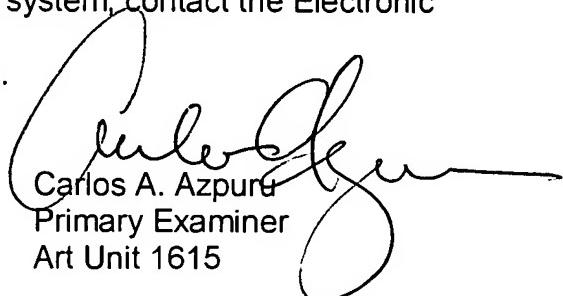
Applicant argues that nothing in Donovan discloses the addition of liquid. Further, applicant argues that a hydrogel need not be hydrated in order to be a hydrogel. However, upon review of the Donovan reference, it is clear that addition of water is contemplated and is necessary for the proper functioning of the drug delivery system at col. 27, lines 66-67; col. 28, lines 1-19. barring a showing of unexpected and/or unusual results, it is therefore maintained that the method of making as disclosed in the instant claims would have been obvious given the disclosure by Donovan.

Claims 37, 40, 46, 47, 50-61, 63-66, 68-79, 81, 83-89, 91-93, 95-97 are objected to as dependent upon a rejected base claim.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos A. Azpuru whose telephone number is (571) 272-0588. The examiner can normally be reached on Tu-Fri, 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Carlos A. Azpuru  
Primary Examiner  
Art Unit 1615

ca